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In re Application of	:	
LOSHAKOVE et al.	:	NOTIFICATION
Application No.: 09/936,789	:	
PCT No.: PCT/IL99/00674	:	
Int. Filing Date: 09 December 1999	:	
Priority Date: 19 March 1999	:	
Attorney's Docket No.: 088/02319	:	
For: VASCULAR CLOSURE DEVICE	:	

This is a decision in response to applicants' "EXPEDITED REQUEST FOR CORRECTED FILING RECEIPT" filed 27 January 2003.

BACKGROUND

On 09 December 1999, applicants filed international application PCT/IL99/00674, which claimed a priority date of 19 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 October 2000, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 19 September 2001.

On 17 September 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a declaration of inventors, and a preliminary amendment.

On 14 March 2002, the USPTO mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) according a 371(c) date of 17 September 2001.

On 27 January 2003, applicants submitted the instant "EXPEDITED REQUEST FOR CORRECTED FILING RECEIPT" requesting that the spelling of the city name for the second applicant be changed, the domestic priority data be changed, and that the foreign priority data be changed.

DISCUSSION

Applicant requests that the city name for the second applicant be changed from "Herzolia" to --Herzelia--. This change is accepted.

Applicant requests that the domestic priority be indicated as follows:

THIS APPLICATION IS A 371 OF PCT/IL99/00674	12/09/1999
WHICH IS A CIP OF 09/701,523	11/28/2000
WHICH IS A 371 OF PCT/IL99/00285	05/30/1999
AND IS A CIP OF 09/701,531	11/28/2000
WHICH IS A 371 OF PCT/IL99/00284	05/30/1999
AND IS A CIP OF 09/936,806	09/17/2001
WHICH IS A 371 OF PCT/IL99/00670	12/08/1999

This change is accepted.

Applicant requests that the following applications listed in the foreign priority be deleted:

ISRAEL	IL9900285	03/19/1999
ISRAEL	IL9900284	05/30/1999.

This change is accepted.

Applicant also requests that the following applications be listed in the foreign priority:

ISRAEL	124694	05/29/1998
ISRAEL	129067	03/19/1999.

The request to add the claim to the Israel 129067 application is accepted. However, the request to add the claim to the Israel 124694 document is refused. 35 U.S.C. 365(b) states:

In accordance with the conditions and requirements of section 119(a) of this title *and the treaty and the Regulations*,¹ an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States. (emphasis added)

Rule 4.10 of the Patent Cooperation Treaty states in part:

(a) Any declaration referred to in Article 8(1) ("priority claim") may claim the priority of one or more earlier applications filed either in or for any country party to the Paris Convention for the Protection of Industrial Property or in or for any Member of the World Trade Organization that is not party to that Convention. Any priority claim *shall, subject to Rule 26 bis.1, be made in the request*; it shall consist of a statement to the effect that the priority of an earlier application is claimed and shall indicate:

¹The term "Regulations," when capitalized, means the Regulations under the treaty, done at Washington on the same date as the treaty. The term "regulations," when not capitalized, means the regulations established by the Director under this title. 35 U.S.C. 351(b).

(i) the date on which the earlier application was filed, *being a date falling within the period of 12 months preceding the international filing date; (emphasis added).*

Accordingly, under 35 U.S.C. 365(b), a priority claim under 35 U.S.C. 119(a) is proper if (a) a claim for priority was made in the request in the international application, and (b) the application was filed within 12 months preceding the international filing date. In the instant application, a claim for priority to the 124694 application was not made in the request in the international application (PCT/IL99/00674). Nor was the 124694 application filed within 12 months preceding the international filing date (09 December 1999).

CONCLUSION

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for issuance of a corrected filing receipt including all of the changes indicated in the "EXPEDITED REQUEST FOR CORRECTED FILING RECEIPT" filed 27 January 2003 with the exception that the foreign priority claim to application ISRAEL 124964 filed 5/29/1998 not be added.



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